

Office of the Secretary of Defense

§ 252.5

§ 252.1 Reissuance and purpose.

This part reissues 32 CFR part 252 to update policies and procedures for the use of offshore areas by the Department of Defense. It shall serve as the basis for a comprehensive Offshore Military Activities Program.

§ 252.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense (OSD), the Military Departments (including their National Guard and Reserve components), the Organization of the Joint Chiefs of Staff (OJCS), and the Defense Agencies (hereafter referred to collectively as "DoD Components").

(b) Concerns the use of offshore areas for military purposes. It does not limit the responsibilities of the Secretary of the Navy assigned under 33 U.S.C. 1101 *et seq.*

§ 252.3 Definitions.

Offshore areas. The submerged land areas defined in 43 U.S.C. 1301 *et seq.* and 43 U.S.C. 1331 *et seq.* and the adjacent waters affected by the use of those submerged lands.

Offshore Military Activities Program. The program established to implement DoD policies and procedures for those activities, operations, and installations that require an offshore environment and that may impact on offshore areas.

Outer Continental Shelf. All submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of 43 U.S.C. 1301 *et seq.*, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

State-owned Offshore Submerged Lands. Coastal portions of lands beneath navigable waters, as defined in section 2 of the Submerged Lands Act.

§ 252.4 Policy.

(a) It is DoD policy to support the principle that lands composing the Outer Continental Shelf and state-owned offshore areas shall be used in the best interest of the United States. Therefore, it is DoD policy for the use of offshore areas to be shared with non-

military interests whenever they can be accommodated.

(b) The Secretaries of Defense and the Interior have agreed on procedures for resolving conflicts over joint use of offshore areas for military and mineral exploration or developmental purposes. In carrying out negotiations with elements of the Department of the Interior (DoI), the Department of Defense shall be guided by this agreement when appropriate.

(c) If a coastal state determines that the mineral potential of off-shore areas being used or proposed to be used for military purposes must be explored or developed, DoD shall endeavor to accommodate joint military and commercial use of those areas. If compatible joint use is not economically or militarily feasible, DoD shall seek agreement with the coastal state to exclude conflict areas from its leasing program.

§ 252.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Production and Logistics)* (ASD(P&L)) shall maintain a comprehensive program for the military use of the offshore environment and provide related direction and policy to DoD Components.

(b) The *Secretary of the Army* shall provide notices to the ASD(A&L), to affected military installations and activities, and to the Director of the Defense Mapping Agency Hydrographic/Topographic Center of potential obstructions and hazards to navigation as stated in the Rivers and Harbors Appropriation Act, of proposed permits for obstructions to be located on the Outer Continental Shelf under 43 U.S.C. 1331 *et seq.*, as amended, and of proposed permits for artificial reefs under the National Fishing Enhancement Act of 1984 to ensure compatibility with the Offshore Military Activities Program.

(c) The *Secretary of the Navy* shall:

(1) Act as DoD Executive Agent for outer continental shelf matters and carry out responsibilities assigned to the Executive Agent in the Agreement.

(2) Conduct continuing liaison with DoI, appropriate coastal states, and the